

DOCUMENT RESUME

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[Review of the Test of Mandatory Subcontracting to Small Business]. PSAD-78-107; PSAD-78-108; B-132740. May 19, 1978. Released May 30, 1978. 3 pp. + 7 enclosures (12 pp.).

Report to Rep. Joseph P. Addabbo, Chairman, House Committee on Small Business: Minority Enterprise and General Oversight Subcommittee; Sen. Lawton Chiles, Chairman, Senate Committee on Governmental Affairs: Federal Spending Practices and Open Government Subcommittee; by Elmer B. Staats, Comptroller General.

Issue Area: Efficiency, Effectiveness and Economics of Procurement Practices under Federal Grants. (1917).  
Contact: Procurement and Systems Acquisition Div.  
Budget Function: Financial Management Information Systems: Review and Approval of Accounting Systems (1007).  
Organization Concerned: Department of Defense; Department of Health, Education, and Welfare; General Services Administration; Department of Commerce; Department of the Interior; National Aeronautics and Space Administration; Department of Energy.  
Congressional Relevance: House Committee on Small Business: Minority Enterprise and General Oversight Subcommittee; Senate Committee on Governmental Affairs: Federal Spending Practices and Open Government Subcommittee. Rep. Joseph P. Addabbo; Sen. Lawton Chiles.

On March 11, 1976, the Office of Federal Procurement Policy requested six Federal agencies to conduct a test of mandatory subcontracting to small businesses. The agencies involved were the Departments of Defense; Interior; and Health, Education, and Welfare; the Energy Research and Development Administration, now within the Department of Energy (DOE); the General Services Administration; and the National Aeronautics and Space Administration. The Office provided test criteria and on September 22, 1976, approved the agencies' test plans. The six agencies have awarded 55 contracts in the test program. DOE has awarded 78 cooperative agreements in which it has a cost sharing relationship with the performing organization. These were awarded under a single solicitation for solar heating and demonstration projects. Of the 55 contracts awarded, 28 were for manufacturing and production, 8 were for research and development, 12 were for construction, 3 were for maintenance, and operations, 2 were for facilities management and 2 were for support services. The cooperative agreements were construction-type awards. (Author/HTW)

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COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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RELEASED 5/78

May 19, 1978

5/30/78

B-132740

The Honorable Joseph P. Addabbo  
Chairman, Subcommittee on Minority  
Enterprise and General Oversight  
Committee on Small Business  
House of Representatives

Dear Mr. Chairman:

This report is in response to your letters of February 3 and 16, 1978, and subsequent discussions with your office in regard to the test of mandatory subcontracting to small business. It was agreed that this report would be limited to a review of the program's status. We plan to issue a report later this year on the test program's results.

On March 11, 1976, the Office of Federal Procurement Policy requested six Federal agencies to conduct a test of mandatory subcontracting to small business. The six agencies involved were the Departments of Defense; Interior; and Health, Education, and Welfare; the Energy Research and Development Administration, now within the Department of Energy; the General Services Administration; and the National Aeronautics and Space Administration. The request was initiated by the Office of Federal Procurement Policy pursuant to recommendation A-48 of the Commission on Government Procurement.

The agencies were requested to develop their own test programs, without regard to uniformity, in the interest of promoting a variety of approaches. The Office of Federal Procurement Policy provided the following test criteria:

- Each agency would select at least one procurement in each major procurement category, such as research and development, manufacturing and production, construction, facilities management, and maintenance and operations services.
- Procurements with a dollar value sufficiently large to justify subcontracting opportunities were to be selected.

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- Mandatory small business subcontracting percentages were to be based on a presolicitation determination of subcontract potential and on availability of sufficient small business firms to compete for the work identified for subcontract award.
- The mandatory percentages were to be set at levels higher than those achieved historically for similar work under voluntary small business subcontracting procedures.
- Competitive and noncompetitive procurements were to be selected.
- The test program was, in addition to normal agency procedures, to promote small business subcontracting.

All of the agencies' test plans were approved by the Office on September 22, 1976.

The test was originally scheduled for completion by March 31, 1977; however, the Office extended the program to include contracts awarded up to October 1977, after the agencies notified it that they had experienced problems with identifying potential contracts for the test.

The six agencies have awarded 55 contracts in the test program. In addition, the Department of Energy has awarded about 78 cooperative agreements. The cooperative agreements, in which the Department has a cost sharing relationship with the performing organization, were awarded under a single solicitation for solar heating and demonstration projects.

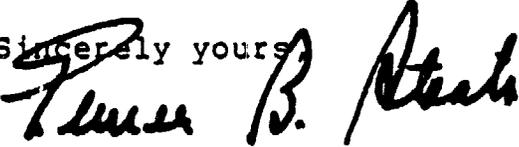
Of the 55 contracts awarded, 28 were for manufacturing and production, 8 were for research and development, 12 were for construction, 3 were for maintenance and operations; 2 were for facilities management, and 2 were for support services. The 78 cooperative agreements were construction-type awards.

Status reports for each agency are provided in enclosures I through VI. Enclosure VII is a schedule of the agencies' contract awards according to contract category.

As requested, we did not obtain comments from the agencies involved in the program.

A copy of this report is being sent to the Chairman, Subcommittee on Federal Spending Practices and Open Government, Senate Committee on Governmental Affairs. Unless you announce its contents earlier, no further distribution of this report will be made until 10 days from the date of the report.

Sincerely yours

A handwritten signature in black ink, appearing to read "Thomas B. Steach". The signature is written in a cursive style with a large initial 'T' and 'S'.

Comptroller General  
of the United States

Enclosures - 7

DEPARTMENT OF DEFENSE

The Department of Defense has awarded 25 contracts with a mandatory small business subcontracting clause. Two additional awards are anticipated.

The Departments of the Air Force, Army, Navy, and the Defense Logistics Agency awarded contracts included in the test.

The clause requires the prime contractor to place at least a specified percentage of the total dollar value of all subcontracts to small business concerns. The Air Force was granted an exception from this clause in its Facilities Management test contract by using a small business subcontract set-aside clause, which designated items of the contract which were to be subcontracted to small business. The following table lists pertinent information for each contract awarded under the test program.

## ENCLOSURE I

## ENCLOSURE I

<u>Contract category</u>	<u>Prime contract value</u>	<u>Mandatory small business subcontracting requirement as a percent of total subcontract dollar value</u>
Construction	\$ 2,306,000	50
do.	1,974,000	50
do.	1,006,900	75
do.	1,625,999	75
Manufacturing/ production	877,483	25
do.	98,940	25
do.	469,525	25
do.	469,525	25
do.	339,755	25
do.	4,540,799	40
do.	708,342	40
do.	12,084,000	10
do.	5,531,540	65
do.	10,750,000	58
Research and development	1,298,317	50
do.	13,784,923	40
do.	34,770,056	10
do.	29,766,643	10
do.	26,658,310	20
do.	4,986,313	30
Maintenance and operation	30,000,000	10
do.	(a)	
do.	28,282,229	17
Facilities management	304,500	57
do.	(a)	

a/Information not available.

On January 5, 1978, the Defense Audit Service issued its report entitled "Report on the Audit of Small Business Activities in the Department of Defense," which covers, in part, the mandatory small business subcontracting test program.

The report states that at most buying offices the mandatory subcontracting percentages were determined in a way which made the program appear more successful than the facts would

indicate. Contractors with good small business records were selected and very safe goals were established. The following table showing five procurements and the procuring activity was included in the report.

<u>Buying office</u>	<u>Small business goal in contract</u>	<u>Small business subcontracting achieved by contractor in previous fiscal year</u>
	(percent)	(percent)
Defense		
Electronics		
Supply Center	25	76
Armament Materiel		
Readiness Command	10	30
Naval Regional		
Procurement		
Office, Long		
Beach, Calif.	17	49
Space and Missile		
Systems Organi-		
zation	20	37
Defense General		
Supply Center	25	89

The report stated that because of the way in which many of the goals were determined, the test results could lead one to conclude that the mandatory clause is encouraging some contractors to subcontract with small business, when in reality, they are only achieving their normal percentages or less.

In his comments on the report, the Deputy Under Secretary of Defense for Research and Engineering (Acquisition Policy) explained that it was not the intent to establish percentages lower than those which are normally subcontracted to small firms. This test has demonstrated the need for the Department's Small Business Specialist and the Small Business Administration Procurement Center Representative to review such awards with the contracting officer before solicitation to assure the establishment of a proper small business subcontracting percentage requirement.

ENCLOSURE I

ENCLOSURE I

The Defense Audit Service visited nine contractors involved with the test. The consensus of the contractors was that compliance with the clause caused additional recordkeeping and reporting. While very few viewed the current test as a burden, they all felt that if the program was expanded they would be faced with different goals for each of their contracts and that would entail an excessive amount of unnecessary work.

DEPARTMENT OF ENERGY

The Department of Energy has awarded two contracts with a mandatory small business subcontracting clause and eight additional contract awards are planned. Approximately 78 cooperative agreements were also awarded under a Program Opportunity Notice procedure which was included in the Mandatory Small Business Subcontracting Program. This procedure was used in funding solar demonstration projects.

The clause requires the prime contractor to agree to subcontract at least a designated percentage of the total estimated contract cost with small business concerns.

The following table shows pertinent information on the two contracts awarded under the test program.

<u>Contract category</u>	<u>Estimated prime contract cost</u>	<u>Mandatory small business subcontracting requirement as a percent of estimated prime contract cost</u>
Construction	\$ 193,300,000	5
Support services	3,798,853	15

The solicitations for these two contracts were issued before implementation of the test program. The goals were arrived at during negotiations with the contractor.

The contract with the 15-percent subcontracting goal includes an incentive clause. The incentive clause provides that the initial fee shall be increased 0.1 percent of the estimated contract cost for each percentage point of small business subcontracting above the prescribed mandatory percentage, not to exceed 2 percent of the contract estimated cost. Failure to meet the mandatory subcontracting requirement is a basis for fee reduction to the initial fee of 0.2 percent of the estimated contract cost for each percentage point of small business subcontracting below the mandatory percentage, not to exceed 2 percent of the contract estimated cost.

ENCLOSURE II

ENCLOSURE II

The Program Opportunity Notice stipulated that at least 50 percent of the awards would be made to groups proposing substantial small business participation. The minimum requirement in this determination was that 20 percent of the prime award amount would be subcontracted to small business. Approximately 78 of the 82 awards were made to groups that met the small business participation requirements.

DEPARTMENT OF HEALTH, EDUCATION,  
AND WELFARE

The Department of Health, Education, and Welfare awarded three contracts with the mandatory small business subcontracting clause.

The clause required the prime contractor to agree to award at least a specified percentage of the total dollar value of all subcontracts and purchases awarded under the prime contract to small business concerns.

The following table shows pertinent program information.

<u>Contract category</u>	<u>Prime contract value</u>	<u>Mandatory small business subcontracting requirement as a percent of total subcontract dollar value</u>
Construction	693,500	100
do.	11,168,647	60
Support services	3,403,104	100

DEPARTMENT OF THE INTERIOR

The Department of the Interior awarded three construction contracts with a mandatory small business subcontracting clause.

The clause required the prime contractor to agree to award at least a specified percentage of the total dollar value of all subcontracts and purchases awarded under the prime contract to small business concerns. Of the three contracts which were in the test program, two have been terminated for convenience. The inclusion of the clause did not cause the termination of either contract.

Before termination of these two contracts, initial reports were received from the two contractors involved in the test. The contractors indicated that they normally would have a mix of small and large business subcontracts which would be about the same as was with the mandatory small business subcontract clause.

One of the prime contractors stated that in one case it had received two nearly identical bids for a subcontract from a large and a small business. Ordinarily, it would have awarded the subcontract to the large business because of prior dealings with that firm. However, due to the mandatory clause the subcontract was awarded to the small business.

We were unable to obtain a status report on the only existing contract in the program.

GENERAL SERVICES ADMINISTRATION

The General Services Administration awarded 20 contracts with a small business subcontracting clause. The Federal Supply Service and the Public Building Service awarded contracts under the program.

The clause used by the Federal Supply Service required prime contractors to subcontract part of the prime contract to small business concerns. The prime contractor was required to subcontract the maximum amount practicable to small business. This clause did not require mandatory percentages of subcontracting. Instead, "good faith best efforts" to increase the amount of small business subcontracting under the contract was required.

The following table shows pertinent program information.

<u>Contract category</u>	<u>Prime contract value</u>	<u>Best efforts goal as a percentage of prime contract value</u>
Manufacturing production	902,000	8.4
do.	2,039,235	40
do.	398,351	16
do.	38,063	30
do.	34,620	10
do.	229,663	8.2
do.	5,525	50
do.	99,914	18
do.	51,066	13
do.	82,810	35
do.	550,501	23
do.	30,924	20
do.	3,100	32
do.	1,116,499	8.2
do.	2,760	5
do.	76,900	50
do.	64,017	12
do.	23,700	56

In addition to the above contracts, the Federal Supply Service issued four solicitations in which no contracts were awarded with the small business subcontracting goal. These solicitations were amended to delete the subcontracting clause, since the normal bidders for these items produced the items in-house and there was no opportunity for subcontracting.

Two contracts were awarded by the Public Building Service under the test program.

The clause required the prime contractor to subcontract at least a specified percentage of the prime contract price to small business concerns.

The following table displays pertinent program information.

<u>Contract category</u>	<u>Prime contract value</u>	<u>Small business subcontracting achieved by prime contractor as a percent of prime contract price</u>	<u>Mandatory small business subcontracting requirements specified in contract</u>
Construction	3,248,000	70.7	65
do.	1,393,000	73	50

NATIONAL AERONAUTICS AND SPACEADMINISTRATION

The National Aeronautics and Space Administration awarded two contracts with a mandatory small business subcontracting clause. Additional awards are anticipated.

The clause required the prime contractor to subcontract at least a specified percentage of the total value of the prime contract to small business concerns.

The following table displays pertinent program information.

<u>Contract category</u>	<u>Prime contract value</u>	<u>Mandatory small business subcontracting requirement as a percent of prime contract value</u>
Research and development	8,600,000	2
do.	82,000,000	1

CONTRACTS AWARDED IN THE TEST PROGRAM

CONTRACT CATEGORIES

<u>Agency</u>	<u>Manufacturing and production</u>	<u>Research and development</u>	<u>Construction</u>	<u>Maintenance and operation</u>	<u>Facilities management</u>	<u>Support services</u>	<u>Total</u>
Department of Defense	10	6	4	3	2	-	25
Department of Energy	-	-	1	-	-	1	2
Department of Health, Education, and welfare	-	-	2	-	-	1	3
Department of the Interior	-	-	3	-	-	-	3
General Services Administration	18	-	2	-	-	-	20
National Aeronautics and Space Administration	-	2	-	-	-	-	2
Total	<u>28</u>	<u>8</u>	<u>12</u>	<u>3</u>	<u>2</u>	<u>2</u>	<u>55</u>